

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

**ROSHAWN S. PEARSON**  
915 Walden Court  
Fairfield, CA 94533

Case No. 2011-892

Applicant for Registered Nurse License

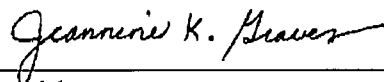
Respondent

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **August 19, 2011.**

IT IS SO ORDERED **July 20, 2011.**



\_\_\_\_\_  
President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

6  
7 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

9  
10 In the Matter of the Statement of Issues Against:

Case No. 2011-892

11 **ROSHAWN S. PEARSON**  
12 **915 Walden Court**  
**Fairfield, CA 94533**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

13 Applicant.

14  
15 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
16 entitled proceedings that the following matters are true:

17 PARTIES

18 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of  
19 Registered Nursing. She brought this action solely in her official capacity and is represented in  
20 this matter by Kamala D. Harris, Attorney General of the State of California, by Frank H. Pacoe,  
21 Supervising Deputy Attorney General.

22 2. Applicant Roshawn Pearson (Applicant) is representing himself in this proceeding  
23 and has chosen not to exercise his right to be represented by counsel.

24 3. On or about October 18, 2010, Applicant filed an application dated October 8, 2010,  
25 with the Board of Registered Nursing to obtain a registered nurse license.

26 JURISDICTION

27 4. Statement of Issues No. 2011-892 was filed before the Board of Registered Nursing  
28 (Board), Department of Consumer Affairs, and is currently pending against Applicant. The

1 Statement of Issues and all other statutorily required documents were properly served on  
2 Applicant on May 9, 2011. A copy of Statement of Issues No. 2011-892 is attached as  
3 Exhibit A and incorporated herein by reference.

4 ADVISEMENT AND WAIVERS

5 5. Applicant has carefully read, and understands the charges and allegations in  
6 Statement of Issues No. 2011-892. Applicant has also carefully read, and understands the effects  
7 of this Stipulated Settlement and Disciplinary Order.

8 6. Applicant is fully aware of his legal rights in this matter, including the right to a  
9 hearing on the charges and allegations in the Statement of Issues; the right to be represented by  
10 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
11 the right to present evidence and to testify on his own behalf; the right to the issuance of  
12 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
13 reconsideration and court review of an adverse decision; and all other rights accorded by the  
14 California Administrative Procedure Act and other applicable laws.

15 7. Applicant voluntarily, knowingly, and intelligently waives and gives up each and  
16 every right set forth above.

17 CULPABILITY

18 8. Applicant admits the truth of each and every charge and allegation in Statement of  
19 Issues No. 2011-892.

20 9. Applicant agrees that his Registered Nurse License is subject to denial and he agrees  
21 to be bound by the Board of Registered Nursing (Board)'s probationary terms as set forth in the  
22 Disciplinary Order below.

23 CIRCUMSTANCES IN MITIGATION

24 10. Applicant Roshawn Pearson has never been the subject of any Board disciplinary  
25 action. He is admitting responsibility at an early stage in these proceedings. He has submitted  
26 mitigation evidence to the Board's representatives verifying that he has successfully completed a  
27 court ordered 18 month Multiple Offender Program on May 15, 2009 and he has submitted letters  
28

1 from his supervisors and colleagues attesting to his character and positive work ethic. He lists his  
2 sobriety date as November 2, 2007.

### 3 CONTINGENCY

4 11. This stipulation shall be subject to approval by the Board of Registered Nursing.  
5 Applicant understands and agrees that counsel for Complainant and the staff of the Board of  
6 Registered Nursing may communicate directly with the Board regarding this stipulation and  
7 settlement, without notice to or participation by Applicant. By signing the stipulation, Applicant  
8 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation  
9 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation  
10 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
11 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
12 and the Board shall not be disqualified from further action by having considered this matter.

13 12. The parties understand and agree that facsimile copies of this Stipulated Settlement  
14 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
15 effect as the originals.

16 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
17 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
18 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
19 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
20 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
21 writing executed by an authorized representative of each of the parties.

22 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
23 the Board may, without further notice or formal proceeding, issue and enter the following  
24 Disciplinary Order:

### 25 DISCIPLINARY ORDER

26  
27 IT IS HEREBY ORDERED that the application of Applicant Roshawn Samuel Pearson for  
28 licensure is hereby granted. Upon successful completion of the licensure examination and all

1 other licensing requirements, a license shall be issued to Applicant. Said license shall  
2 immediately be revoked, the order of revocation stayed and Applicant placed on probation for a  
3 period of three (3) years on the following conditions:

4 **Severability Clause.** Each condition of probation contained herein is a separate and  
5 distinct condition. If any condition of this Order, or any application thereof, is declared  
6 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
7 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
8 and enforceable to the fullest extent permitted by law.

9 1. **Obey All Laws.** Applicant shall obey all federal, state and local laws.  
10 A full and detailed account of any and all violations of law shall be reported by Applicant to the  
11 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
12 compliance with this condition, Applicant shall submit completed fingerprint forms and  
13 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
14 as part of the licensure application process.

15 **Criminal Court Orders:** If Applicant is under criminal court orders, including probation  
16 or parole, and the order is violated, this shall be deemed a violation of these probation conditions,  
17 and may result in the filing of an accusation and/or petition to revoke probation.

18 2. **Comply with the Board's Probation Program.** Applicant shall fully  
19 comply with the conditions of the Probation Program established by the Board and cooperate with  
20 representatives of the Board in its monitoring and investigation of the Applicant's compliance  
21 with the Board's Probation Program. Applicant shall inform the Board in writing within no more  
22 than 15 days of any address change and shall at all times maintain an active, current license status  
23 with the Board, including during any period of suspension.

24 Upon successful completion of probation, Applicant's license shall be fully restored.

25 3. **Report in Person.** Applicant, during the period of probation, shall appear  
26 in person at interviews/meetings as directed by the Board or its designated representatives.

27 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency  
28 or practice as a registered nurse outside of California shall not apply toward a reduction of this

1 probation time period. Applicant's probation is tolled, if and when he resides outside of  
2 California. Applicant must provide written notice to the Board within 15 days of any change of  
3 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
4 returning to practice in this state.

5 Applicant shall provide a list of all states and territories where he has ever been licensed as  
6 a registered nurse, vocational nurse, or practical nurse. Applicant shall further provide  
7 information regarding the status of each license and any changes in such license status during the  
8 term of probation. Applicant shall inform the Board if he applies for or obtains a new nursing  
9 license during the term of probation.

10 5. **Submit Written Reports.** Applicant, during the period of probation, shall  
11 submit or cause to be submitted such written reports/declarations and verification of actions under  
12 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
13 relative to Applicant's compliance with all the conditions of the Board's Probation Program.  
14 Applicant shall immediately execute all release of information forms as may be required by the  
15 Board or its representatives.

16 Applicant shall provide a copy of this Decision to the nursing regulatory agency in every  
17 state and territory in which he has a registered nurse license.

18 6. **Function as a Registered Nurse.** Applicant, during the period of  
19 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
20 hours per week for 6 consecutive months or as determined by the Board.

21 For purposes of compliance with the section, "engage in the practice of registered nursing"  
22 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
23 non-direct patient care position that requires licensure as a registered nurse.

24 The Board may require that advanced practice nurses engage in advanced practice nursing  
25 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

26 If Applicant has not complied with this condition during the probationary term, and  
27 Applicant has presented sufficient documentation of his good faith efforts to comply with this  
28 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an

1 extension of Applicant's probation period up to one year without further hearing in order to  
2 comply with this condition. During the one year extension, all original conditions of probation  
3 shall apply.

4           7.     **Employment Approval and Reporting Requirements.** Applicant shall  
5 obtain prior approval from the Board before commencing or continuing any employment, paid or  
6 voluntary, as a registered nurse. Applicant shall cause to be submitted to the Board all  
7 performance evaluations and other employment related reports as a registered nurse upon request  
8 of the Board.

9           Applicant shall provide a copy of this Decision to his employer and immediate supervisors  
10 prior to commencement of any nursing or other health care related employment.

11           In addition to the above, Applicant shall notify the Board in writing within seventy-two  
12 (72) hours after he obtains any nursing or other health care related employment. Applicant shall  
13 notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
14 regardless of cause, from any nursing, or other health care related employment with a full  
15 explanation of the circumstances surrounding the termination or separation.

16           8.     **Supervision.** Applicant shall obtain prior approval from the Board  
17 regarding Applicant's level of supervision and/or collaboration before commencing or continuing  
18 any employment as a registered nurse, or education and training that includes patient care.

19           Applicant shall practice only under the direct supervision of a registered nurse in good  
20 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
21 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
22 approved.

23           Applicant's level of supervision and/or collaboration may include, but is not limited to the  
24 following:

25           (a)   Maximum - The individual providing supervision and/or collaboration is present in  
26 the patient care area or in any other work setting at all times.

27           (b)   Moderate - The individual providing supervision and/or collaboration is in the patient  
28 care unit or in any other work setting at least half the hours Applicant works.

1 (c) Minimum - The individual providing supervision and/or collaboration has person-to-  
2 person communication with Applicant at least twice during each shift worked.

3 (d) Home Health Care - If Applicant is approved to work in the home health care setting,  
4 the individual providing supervision and/or collaboration shall have person-to-person  
5 communication with Applicant as required by the Board each work day. Applicant shall maintain  
6 telephone or other telecommunication contact with the individual providing supervision and/or  
7 collaboration as required by the Board during each work day. The individual providing  
8 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
9 patients' homes visited by Applicant with or without Applicant present.

10 9. **Employment Limitations.** Applicant shall not work for a nurse's registry,  
11 in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling  
12 nurse, or for an in-house nursing pool.

13 Applicant shall not work for a licensed home health agency as a visiting nurse unless the  
14 registered nursing supervision and other protections for home visits have been approved by the  
15 Board. Applicant shall not work in any other registered nursing occupation where home visits are  
16 required.

17 Applicant shall not work in any health care setting as a supervisor of registered nurses. The  
18 Board may additionally restrict Applicant from supervising licensed vocational nurses and/or  
19 unlicensed assistive personnel on a case-by-case basis.

20 Applicant shall not work as a faculty member in an approved school of nursing or as an  
21 instructor in a Board approved continuing education program.

22 Applicant shall work only on a regularly assigned, identified and predetermined worksite(s)  
23 and shall not work in a float capacity.

24 If Applicant is working or intends to work in excess of 40 hours per week, the Board may  
25 request documentation to determine whether there should be restrictions on the hours of work.

26 10. **Complete a Nursing Course(s).** Applicant, at his own expense, shall  
27 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
28 than six months prior to the end of his probationary term.



1 Applicant shall obtain prior approval from the Board before enrolling in the course(s).  
2 Applicant shall submit to the Board the original transcripts or certificates of completion for the  
3 above required course(s). The Board shall return the original documents to Applicant after  
4 photocopying them for its records.

5 11. **Violation of Probation.** If Applicant violates the conditions of his  
6 probation, the Board after giving Applicant notice and an opportunity to be heard, may set aside  
7 the stay order and impose the stayed discipline (revocation/suspension) of Applicant's license.

8 If during the period of probation, an accusation or petition to revoke probation has been  
9 filed against Applicant's license or the Attorney General's Office has been requested to prepare  
10 an accusation or petition to revoke probation against Applicant's license, the probationary period  
11 shall automatically be extended and shall not expire until the accusation or petition has been acted  
12 upon by the Board.

13 12. **License Surrender.** During Applicant's term of probation, if he ceases  
14 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
15 probation, Applicant may surrender his license to the Board. The Board reserves the right to  
16 evaluate Applicant's request and to exercise its discretion whether to grant the request, or to take  
17 any other action deemed appropriate and reasonable under the circumstances, without further  
18 hearing. Upon formal acceptance of the tendered license and wall certificate, Applicant will no  
19 longer be subject to the conditions of probation.

20 Surrender of Applicant's license shall be considered a disciplinary action and shall become  
21 a part of Applicant's license history with the Board. A registered nurse whose license has been  
22 surrendered may petition the Board for reinstatement no sooner than the following minimum  
23 periods from the effective date of the disciplinary decision:

- 24 (1) Two years for reinstatement of a license that was surrendered for any reason other  
25 than a mental or physical illness; or  
26 (2) One year for a license surrendered for a mental or physical illness.

27 13. **Physical Examination.** Within 45 days of the effective date of this  
28 Decision, Applicant, at his expense, shall have a licensed physician, nurse practitioner, or

1 physician assistant, who is approved by the Board before the assessment is performed, submit an  
2 assessment of the Applicant's physical condition and capability to perform the duties of a  
3 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
4 medically determined, a recommended treatment program will be instituted and followed by the  
5 Applicant with the physician, nurse practitioner, or physician assistant providing written reports  
6 to the Board on forms provided by the Board.

7 If Applicant is determined to be unable to practice safely as a registered nurse, the licensed  
8 physician, nurse practitioner, or physician assistant making this determination shall immediately  
9 notify the Board and Applicant by telephone, and the Board shall request that the Attorney  
10 General's office prepare an accusation or petition to revoke probation. Applicant shall  
11 immediately cease practice and shall not resume practice until notified by the Board. During this  
12 period of suspension, Applicant shall not engage in any practice for which a license issued by the  
13 Board is required until the Board has notified Applicant that a medical determination permits  
14 Applicant to resume practice. This period of suspension will not apply to the reduction of this  
15 probationary time period.

16 If Applicant fails to have the above assessment submitted to the Board within the 45-day  
17 requirement, Applicant shall immediately cease practice and shall not resume practice until  
18 notified by the Board. This period of suspension will not apply to the reduction of this  
19 probationary time period. The Board may waive or postpone this suspension only if significant,  
20 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
21 by Applicant to obtain the assessment, and a specific date for compliance must be provided. Only  
22 one such waiver or extension may be permitted.

23 14. **Participate in Treatment/Rehabilitation Program for Chemical**  
24 **Dependence.** Applicant, at his expense, shall successfully complete during the probationary  
25 period or shall have successfully completed prior to commencement of probation a Board-  
26 approved treatment/rehabilitation program of at least six months duration. As required, reports  
27 shall be submitted by the program on forms provided by the Board. If Applicant has not  
28 completed a Board-approved treatment/rehabilitation program prior to commencement of

1 probation, Applicant, within 45 days from the effective date of the decision, shall be enrolled in a  
2 program. If a program is not successfully completed within the first nine months of probation,  
3 the Board shall consider Applicant in violation of probation.

4 Based on Board recommendation, each week Applicant shall be required to attend at least  
5 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,  
6 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.  
7 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be  
8 added. Applicant shall submit dated and signed documentation confirming such attendance to the  
9 Board during the entire period of probation. Applicant shall continue with the recovery plan  
10 recommended by the treatment/rehabilitation program or a licensed mental health examiner  
11 and/or other ongoing recovery groups.

12 15. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Applicant  
13 shall completely abstain from the possession, injection or consumption by any route of all  
14 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
15 the same are ordered by a health care professional legally authorized to do so as part of  
16 documented medical treatment. Applicant shall have sent to the Board, in writing and within  
17 fourteen (14) days, by the prescribing health professional, a report identifying the medication,  
18 dosage, the date the medication was prescribed, the Applicant's prognosis, the date the  
19 medication will no longer be required, and the effect on the recovery plan, if appropriate.

20 Applicant shall identify for the Board a single physician, nurse practitioner or physician  
21 assistant who shall be aware of Applicant's history of substance abuse and will coordinate and  
22 monitor any prescriptions for Applicant for dangerous drugs, controlled substances or mood-  
23 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
24 to the Board on a quarterly basis Applicant's compliance with this condition. If any substances  
25 considered addictive have been prescribed, the report shall identify a program for the time limited  
26 use of any such substances.

27 The Board may require the single coordinating physician, nurse practitioner, or physician  
28 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive

1 medicine.

2           16.     **Submit to Tests and Samples.** Applicant, at his expense, shall participate  
3 in a random, biological fluid testing or a drug screening program which the Board approves. The  
4 length of time and frequency will be subject to approval by the Board. Applicant is responsible  
5 for keeping the Board informed of Applicant's current telephone number at all times. Applicant  
6 shall also ensure that messages may be left at the telephone number when he is not available and  
7 ensure that reports are submitted directly by the testing agency to the Board, as directed. Any  
8 confirmed positive finding shall be reported immediately to the Board by the program and  
9 Applicant shall be considered in violation of probation.

10       In addition, Applicant, at any time during the period of probation, shall fully cooperate with  
11 the Board or any of its representatives, and shall, when requested, submit to such tests and  
12 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
13 hypnotics, dangerous drugs, or other controlled substances.

14       If Applicant has a positive drug screen for any substance not legally authorized and not  
15 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
16 files a petition to revoke probation or an accusation, the Board may suspend Applicant from  
17 practice pending the final decision on the petition to revoke probation or the accusation. This  
18 period of suspension will not apply to the reduction of this probationary time period.

19       If Applicant fails to participate in a random, biological fluid testing or drug screening  
20 program within the specified time frame, Applicant shall immediately cease practice and shall not  
21 resume practice until notified by the Board. After taking into account documented evidence of  
22 mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
23 suspend Applicant from practice pending the final decision on the petition to revoke probation or  
24 the accusation. This period of suspension will not apply to the reduction of this probationary time  
25 period.

26           17.     **Mental Health Examination.** Applicant shall, within 45 days of the  
27 effective date of this Decision, have a mental health examination including psychological testing  
28 as appropriate to determine his capability to perform the duties of a registered nurse. The

1 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
2 practitioner approved by the Board. The examining mental health practitioner will submit a  
3 written report of that assessment and recommendations to the Board. All costs are the  
4 responsibility of Applicant. Recommendations for treatment, therapy or counseling made as a  
5 result of the mental health examination will be instituted and followed by Applicant.

6 If Applicant is determined to be unable to practice safely as a registered nurse, the licensed  
7 mental health care practitioner making this determination shall immediately notify the Board and  
8 Applicant by telephone, and the Board shall request that the Attorney General's office prepare an  
9 accusation or petition to revoke probation. Applicant shall immediately cease practice and may  
10 not resume practice until notified by the Board. During this period of suspension, Applicant shall  
11 not engage in any practice for which a license issued by the Board is required, until the Board has  
12 notified Applicant that a mental health determination permits Applicant to resume practice. This  
13 period of suspension will not apply to the reduction of this probationary time period.

14 If Applicant fails to have the above assessment submitted to the Board within the 45-day  
15 requirement, Applicant shall immediately cease practice and shall not resume practice until  
16 notified by the Board. This period of suspension will not apply to the reduction of this  
17 probationary time period. The Board may waive or postpone this suspension only if significant,  
18 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
19 by Applicant to obtain the assessment, and a specific date for compliance must be provided. Only  
20 one such waiver or extension may be permitted.

21 18. **Therapy or Counseling Program.** Applicant, at his expense, shall  
22 participate in an on-going counseling program until such time as the Board releases him from this  
23 requirement and only upon the recommendation of the counselor. Written progress reports from  
24 the counselor will be required at various intervals.

25  
26 ACCEPTANCE

27 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
28 stipulation and the effect it will have on my Registered Nurse License. I enter into this

1 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
2 to be bound by the Decision and Order of the Board of Registered Nursing.

3  
4 DATED: 5-24-2011

5 ROSHAWN PEARSON  
6 Applicant

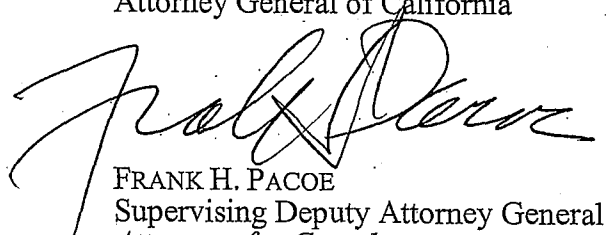
7  
8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
11 Affairs.

12  
13 Dated: 5/25/2011

Respectfully submitted,

14 KAMALA D. HARRIS  
15 Attorney General of California

16   
17 FRANK H. PACOE  
18 Supervising Deputy Attorney General  
19 Attorneys for Complainant

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**Exhibit A**

**Statement of Issues No. 2011-892**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 State Bar No. 91740  
4 455 Golden Gate Avenue, Suite 11000  
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Telephone: (415) 703-5556  
5 Facsimile: (415) 703-5480  
6 *Attorneys for Complainant*

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

Case No. 2011-892

12 **ROSHAWN S. PEARSON**  
915 Walden Court  
Fairfield, CA 94533

**STATEMENT OF ISSUES**

13  
14 Applicant.

15  
16 Complainant alleges:

17 PARTIES

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in  
19 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
20 Consumer Affairs.

21 2. On or about October 18, 2010, the Board of Registered Nursing, Department of  
22 Consumer Affairs received an application for a Registered Nurse License from Roshawn S.  
23 Pearson (Applicant). On or about October 8, 2010, Roshawn S. Pearson certified under penalty  
24 of perjury to the truthfulness of all statements, answers, and representations in the application.  
25 The Board of Registered Nursing denied the application on January 18, 2011.

26 JURISDICTION

27 3. This Statement of Issues is brought before the Board of Registered Nursing,  
28



1 Department of Consumer Affairs, under the authority of the following laws. All section  
2 references are to the Business and Professions Code unless otherwise indicated.

3 STATUTORY PROVISIONS

4 4. Section 2736 of the Business and Professions Code provides, in pertinent part, that  
5 the Board of Registered Nursing (Board) may deny a license when it finds that the applicant has  
6 committed any acts constituting grounds for denial of licensure under Business and Professions  
7 Code section 480.

8 5. Section 480 of the Business and Professions Code, in pertinent part, states:

9 "(a) A board may deny a license regulated by this code on the grounds that the applicant has  
10 one of the following:

11 "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
12 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
13 board is permitted to take following the establishment of a conviction may be taken when the  
14 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
15 an order granting probation is made suspending the imposition of sentence, irrespective of a  
16 subsequent order under the provisions of Section 1203.4 of the Penal Code.

17 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
18 benefit himself or herself or another, or substantially injure another.

19 "(3) (A) Done any act that if done by a licensee of the business or profession in question,  
20 would be grounds for suspension or revocation of license.

21 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is  
22 substantially related to the qualifications, functions, or duties of the business or profession for  
23 which application is made.

24  
25 6. Section 2761 of the Business and Professions Code, in pertinent part, states:

26 "The board may take disciplinary action against a certified or licensed nurse or deny an  
27 application for a certificate or license for any of the following:  
28

1       "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
3 conclusive evidence thereof.

4       . . . .  
5       7. Section 2762 of the Business and Professions Code, in pertinent part, states:

6       "In addition to other acts constituting unprofessional conduct within the meaning of this  
7 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
8 chapter to do any of the following:

9       . . . .  
10       "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
11 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
12 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
13 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
14 ability to conduct with safety to the public the practice authorized by his or her license.

15       "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
16 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
17 or the possession of, or falsification of a record pertaining to, the substances described in  
18 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
19 thereof.

20       . . . .  
21       8. Section 1444 of title 16 of the California Code of Regulations provides that a  
22 conviction or act shall be considered to be substantially related to the qualifications, functions or  
23 duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness  
24 of a registered nurse to practice in a manner consistent with the public health, safety or welfare.

25                   FIRST CAUSE FOR DENIAL OF APPLICATION

26                               (Conviction of a Crime)

27       9. Applicant's application is subject to denial under sections 480(a)(1) and 2761(f) of the  
28 Business and Professions Code in that he was convicted of a crime or act that is substantially

1 related to the qualifications, functions, or and duties of a registered nurse. The circumstances are  
2 as follows:

3 a. On or about September 22, 1997, in a criminal proceeding entitled United  
4 States of America v. Roshawn S. Pearson in the United States District Court, Eastern District of  
5 California, Case Number CR S-97-00155-001, the applicant was convicted by his guilty plea of  
6 violating Title 18 of the United States Code section 641 and section 2(a) (Theft of Government  
7 Property and Aiding and Abetting) and violating Title 18 of the United States Code section 13  
8 and California Vehicle Code section 22350 (Violation of Basic Speed Law).

9 b. On or about October 5, 1995, at Travis Air Force Base, County of Solano, State  
10 and Eastern District of California, the applicant and two unknown males entered the Base  
11 Exchange. The applicant signed the unknown males under false names in the base exchange  
12 registry and then they went to the stereo department. The applicant left the base exchange  
13 building and waited in the parking lot. Thereafter, the two unknown males stole one Pioneer  
14 brand amplifier and on Pioneer brand compact disc changer from the base exchange. When  
15 approached by base exchange security, the two males dropped the merchandise and ran away and  
16 got into a waiting vehicle which was driven away by applicant at a high rate of speed.

17 c. On or about September 22, 1997, applicant was sentenced to probation for a  
18 term of 36 months for his conviction of violating Title 18 of the United States Code section 641  
19 and section 2(a) (Theft of Government Property and Aiding and Abetting).

20 SECOND CAUSE FOR DENIAL OF APPLICATION

21 (Conviction of a Crime)

22 10. Applicant's application is subject to denial under sections 480(a)(1) and 2761(f) of the  
23 Business and Professions Code in that he was convicted of a crime or act that is substantially  
24 related to the qualifications, functions, or and duties of a registered nurse. The circumstances are  
25 as follows:

26 a. On or about September 4, 2003, in a criminal proceeding entitled People of the  
27 State of California v. Roshawn Samuel Pearson in Sacramento County Superior Court, Case No.  
28

1 03T01169, the applicant was convicted by his plea of nolo contendere for violating Vehicle Code  
2 section 23152(a) (driving under the influence of alcohol or drugs), a misdemeanor.

3 b. On or about February 17, 2003, the applicant was arrested in Sacramento  
4 County for driving a motor vehicle under the influence of an alcoholic beverage or drugs, a  
5 violation of Vehicle Code section 23152(a) and driving a motor vehicle while having a 0.08  
6 percent or more blood alcohol level, a violation of Vehicle Code section 23152(b). Sacramento  
7 County Superior Court records indicate that the applicant's blood alcohol content was .11 percent.

8 c. On or about September 4, 2003, the applicant was sentenced to 2 days in the  
9 County Jail, placed on informal probation for 3 years, ordered to pay fines and fees in the amount  
10 of \$1,440.00, and ordered to enroll and complete the First Offender Drinking Driver Program.

### 11 THIRD CAUSE FOR DENIAL OF APPLICATION

#### 12 (Conviction of a Crime)

13 11. Applicant's application is subject to denial under sections 480(a)(1) and 2761(f) of the  
14 Business and Professions Code in that he was convicted of a crime or act that is substantially  
15 related to the qualifications, functions, or and duties of a registered nurse. The circumstances are  
16 as follows:

17 a. On or about June 19, 2007 in a criminal proceeding entitled *People of the State*  
18 *of California v. Roshawn Samuel Pearson* in Solano County Superior Court, Case No.  
19 FCR241534, the applicant was convicted by his plea of nolo contendere for violating Vehicle  
20 Code section 23152(b) (driving while a 0.08% or higher blood alcohol content and a special  
21 allegation of having a blood alcohol content over .15%), a misdemeanor.

22 b. On or about April 8, 2007, the applicant was arrested in Solano County for  
23 driving a motor vehicle while under the influence of alcohol or drugs, a violation of Vehicle Code  
24 section 23152(a), and driving motor vehicle while having a 0.08 percent or more blood alcohol  
25 content, a violation of Vehicle Code section 23152(b). Solano County Superior Court records  
26 indicated that applicant's blood alcohol content was .19 percent.

27 c. On or about June 19, 2007, the applicant was sentenced to 12 days in the  
28 County Jail, placed on summary probation for 3 years, ordered to pay fines and fees in the amount

1 of \$1,710.00, ordered to enroll and complete the 18 month Multiple Offender Driving Under the  
2 Influence Program.

3 FOURTH CAUSE FOR DENIAL OF APPLICATION

4 (Unprofessional Conduct – If Act Committed by Licentiate)

5 12. Applicant's application is subject to denial under section 480(a)(3) of the Business  
6 and Professions Code in that applicant committed acts which if done by a licentiate of the  
7 business or profession in question, would be grounds for suspension or revocation of license.  
8 The circumstances are as follows:

9 a. As set forth in paragraphs 10 and 11 above, the applicant committed acts which if  
10 done by a licentiate of the business and profession in question, would be grounds for suspension  
11 or revocation of that license. The applicant's acts would be subject to disciplinary action under  
12 Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as  
13 defined by Business and Professions Code section 2762(b), in that on or about February 17,  
14 2003 and April 8, 2007, the applicant used alcoholic beverages to an extent or in a manner  
15 dangerous or injurious to himself or others.

16 b. As set forth in paragraphs 10 and 11 above, the applicant committed acts which if  
17 done by a licentiate of the business and profession in question, would be grounds for suspension  
18 or revocation of that license. The applicant's acts would be subject to disciplinary action under  
19 Business and Professions Code section 2761(a) on the grounds of unprofessional conduct, as  
20 defined by Business and Professions Code section 2762(c), in that on or about September 4,  
21 2003 and June 19, 2007, the applicant was convicted of crimes involving the consumption of  
22 alcoholic beverages.

23 PRAYER

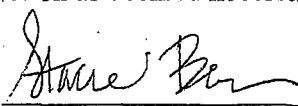
24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
25 and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Denying the application of Roshawn S. Pearson for a Registered Nurse License;

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2. Taking such other and further action as deemed necessary and proper.

DATED: May 3, 2011 

for LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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